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SENATE BILL 1113

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Gerald P. Ortiz y Pino

AN ACT

**RELATING TO MUNICIPALITIES; INCREASING THE TYPES OF
RESIDENTIAL PROPERTY THAT MAY BE INCLUDED IN BUSINESS
IMPROVEMENT DISTRICTS.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 3-63-5 NMSA 1978 (being Laws 1988,
Chapter 32, Section 5, as amended) is amended to read:**

"3-63-5. DISTRICT--AUTHORITY--CREATION.--

**A. A district shall assess a business improvement
benefit fee on any real property or business located within
the district.**

**B. A district shall include any real property or
business that benefits by the improvements set out in the
business improvement district plan and that is located within
the district's geographic boundaries.**

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1 C. The district benefit fee assessment schedule
2 shall not include:

- 3 (1) governmentally owned real property;
4 (2) residential real property other than
5 multifamily residential rental property with at least four
6 units or homeowners associations of multifamily ownership
7 properties; [or]
8 (3) real property owned by a nonprofit
9 corporation; or
10 (4) residential real property located within
11 an existing district that became eligible for a business
12 improvement benefit fee assessment after the district was
13 created, unless the ordinance that created the district is
14 amended to include the new business or property after notice
15 and hearing in accordance with Section 3-63-10 NMSA 1978.

16 D. A district may be created by petition of real
17 property owners or by petition of business owners in a
18 proposed district after notice and public hearing. "

19 Section 2. Section 3-63-13 NMSA 1978 (being Laws 1988,
20 Chapter 32, Section 13, as amended) is amended to read:

21 "3-63-13. ANNUAL ASSESSMENT--SPECIAL ACCOUNT.--

22 A. The council, upon recommendation of the
23 management committee, may annually assess a business
24 improvement benefit fee as defined by the ordinance upon all
25 real property owners and business owners, exclusive of [any

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1 ~~real property owned by the United States or the state or any~~
2 ~~of its political subdivisions located within the district]:~~

3 (1) governmentally owned real property;

4 (2) residential real property other than
5 multifamily residential rental property with at least four
6 units or homeowners associations of multifamily ownership
7 properties;

8 (3) real property owned by a nonprofit
9 corporation; or

10 (4) residential real property located within
11 an existing district that became eligible for a business
12 improvement benefit fee assessment after the district was
13 created, unless the ordinance that created the district is
14 amended to include the new business or property after notice
15 and hearing in accordance with Section 3-63-10 NMSA 1978.

16 B. The council may make reasonable classifications
17 regarding real property owners located within the district.
18 The annual assessment may be based on the amount of space used
19 for business purposes, street front footage, building or land
20 square footage or such other factors or combination of factors
21 as shall be deemed reasonable. The annual assessment shall be
22 in addition to any other incorporated municipal-imposed
23 license fees or other taxes, fees or other charges assessed or
24 levied for the general benefit and use of the incorporated
25 municipality.

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~~[B-]~~ C. All money received by the municipality from the district assessment shall be held in a special account for the benefit of the district.

~~[C-]~~ D. In the case of a district that was created by a majority of real property owners, the amount owed by a commercial tenant shall be proportional to the square footage of space that the tenant rents but shall not be more than seventy-five percent of the total business improvement benefit fee assessed on the property. The property owner shall pay at least twenty-five percent of the business improvement benefit fee.

~~[D-]~~ E. In the case of a district that was created by a majority of businesses, the business improvement benefit fee shall be collected at the same time that the real property owner's property taxes are collected. Businesses shall be assessed for one hundred percent of the business fee assessed to the property. "